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Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, New York 10038

In re Application of :
AEBI et al. :
Application No.: 10/538,950 : DECISION ON PETITION
PCT No.: PCT/CH02/000707 :
Int. Filing: 17 December 2002 :
Priority Date: None :
Attorney Docket No.: LUS-16100 :
For: INTERVERTEBRAL IMPLANT

This decision is issued in response to applicants' 15 June 2007 "Response/Petition to the Decision on Petition & Notification of Defective Declaration" treated herein as a renewed petition under 37 CFR 1.47(a). Additionally, the decision is issued in response to applicants' "Notification Regarding Typographical Error in Spelling of the Inventor's Name" filed 18 June 2007. No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in detail in the decisions mailed herein on 29 November 2006 and 12 February 2007.

The decision mailed 17 April 2007 indicated: (1) the petition under 37 CFR 1.47 was dismissed as moot since the declaration filed 25 January 2007 was executed by the named inventor, the previous nonsigning inventor (Max Aebi); and (2) the declaration appeared to be a compilation of separately executed declarations, and as such was not in a form acceptable under 37 CFR 1.497.

On 15 June 2007, applicants filed the materials considered herein as a renewed petition.

DISCUSSION

A. *Renewed Petition under 37 CFR 1.47(a)*

As stated above, the renewed petition filed 25 January 2007 included a declaration executed by Max Aebi, the previously non-signing inventor. Accordingly, the renewed petition under 37 CFR 1.47(a) was appropriately dismissed as moot.

B. Name Change/Correction

Petitioner states in the "Notification Regarding Typographical Error in Spelling of the Inventor's Name" that the correct name of the third, fourth, fifth and sixth inventor is Dominique Burkard; Beat Lechmann; Paul Pavlov; and Robert Mathys Jr. as indicated on the published international application rather than Dominique Dominique Burkard; Beat Beat Lechmann, Paul Paul Pavlov and Robert Robert Mathys Jr. as indicated on the declaration.

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48 is not required. Accordingly, applicants' explanation of the difference in the third, fourth, fifth and sixth inventor's name is accepted and noted for the record.

Therefore, the declarations filed on 15 June 2007 are in compliance with 37 CFR 1.497. A review of the application papers reveal that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

The declaration filed on 15 June 2007 is in compliance with 37 CFR 1.497.

The application has an international filing date of 17 December 2002 under 35 U.S.C. 363 and a date of **15 June 2007** under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.



Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459